

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re	:
	:
ORLY GINGER,	:
	:
Debtor.	:
-----X	
DALIA GINGER,	:
	:
Plaintiff,	:
	:
v.	:
	:
ORLY GINGER, MICHAEL BOWEN,	:
ARIE GINGER, ARNOLD BROSER,	:
DAVID BROSER, ERIC HERSCHMANN,	:
THE GINGER LITIGATION TRUST,	:
ADBG LLC, TEDCO INC., and	:
DEBORAH PIAZZA, as Chapter 7 Trustee,	:
	:
Defendants.	:
-----X	

**Chapter 7
Case No. 19-13895 (JLG)**

Adv. Pro. No. 20-01010 (JLG)

**DECLARATION OF JARED C. BORRIELLO IN SUPPORT OF VARIOUS
DEFENDANTS' MOTION TO DISMISS DALIA GINGER'S AMENDED COMPLAINT**

I, Jared Borriello, hereby declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am an associate at the law firm of Togut, Segal & Segal LLP, counsel to defendant Arie Genger. I respectfully submit this Declaration in support of the Various Defendants' Motion to Dismiss Dalia Genger's Amended Complaint (the "Motion"). Capitalized terms not defined herein shall have the meanings ascribed to them in the Motion.

2. Attached as **Exhibit 1** is a true and correct copy of Dalia Genger's Amended Complaint dated June 7, 2020, filed in this adversary proceeding at ECF No. 8.

3. Attached as **Exhibit 2** is a true and correct copy of the 2004 Divorce Agreement between Arie Genger and Dalia Genger.

4. Attached as **Exhibit 3** is a true and correct copy of the Final Arbitration Award dated May 6, 2008, as entered in *Dalia Genger v Arie Genger*, No. 13 170 Y 00996 07, American Arbitration Association, Commercial Arbitration Tribunal, New York City.

5. Attached as **Exhibit 4** is a true and correct copy of the 2004 Support Agreement between Sagi Genger and Dalia Genger, dated October 30, 2004.

6. Attached as **Exhibit 5** is a true and correct copy of the 2004 Indemnity between Sagi Genger and Orly Genger, dated November 10, 2004.

7. Attached as **Exhibit 6** is a true and correct copy the Amended Petition to Designate Trustee or, in the Alternative, to Appoint a Special Trustee, and to Compel Accounting, dated February 14, 2008, and filed by Orly Genger in the New York Surrogate's Court (Index No. 2008-0017/E).

8. Attached as **Exhibit 7** is a true and correct copy of the Side Letter Agreement dated August 22, 2008.

9. Attached as **Exhibit 8** is a true and correct copy of excerpts of the transcript of the hearing held on August 9, 2016 in *Genger v. Genger*, Index No. 109749/2009 (Sup. Ct. N.Y. County) (the "2009 Action").

10. Attached as **Exhibit 9** is a true and correct copy of 2013 Settlement Agreement dated June 16, 2013.

11. Attached as **Exhibit 10** is a true and correct copy of the Genger Litigation Trust Agreement dated June 28, 2012.

12. Attached as **Exhibit 11** is a true and correct copy of the Proof of Claim filed by ADBG LLC in Orly Genger's Chapter 7 case on December 9, 2019.

13. Attached as **Exhibit 12** is a true and correct copy of the Affidavit of Dalia, Genger Trustee dated June 26, 2013, and filed by Dalia Genger in *Genger v. Genger*, Index No. 651089/2010 (Sup. Ct. N.Y. County) (the “2010 Action”).

14. Attached as **Exhibit 13** is a true and correct copy of the “so-ordered” Second Amended Stipulation of Discontinuance with Prejudice, entered on July 1, 2013 in the 2010 Action.

15. Attached as **Exhibit 14** is a true and correct copy of the Objections to Stipulation dated June 19, 2013, and filed by TPR and Sagi Trust in the 2010 Action at NYSCEF Doc. No. 467.

16. Attached as **Exhibit 15** is a true and correct copy of the Skadden Letter dated June 30, 2013.

17. Attached as **Exhibit 16** is a true and correct copy of the transcript of the hearing held on August 1, 2013, in the Court of Chancery of the State of Delaware (Case No. 6906-CS).

18. Attached as **Exhibit 17** is a true and correct copy of the Stipulation and Order of Dismissal, by and between the Trump Group, TPR Investment Associates, Inc., and Dalia Genger, as Trustee of the Orly Genger 1993 Trust, so ordered on August 30, 2013 in the Court of Chancery of the State of Delaware (Case No. 6906-CS).

19. Attached as **Exhibit 18** is a true and correct copy of a Notice of Appeal, dated March 29, 2013, and filed in the Delaware Supreme Court.

20. Attached as **Exhibit 19** is a true and correct copy of the Amended Petition for Turnover of Trust Property and Other Relief, dated March 28, 2018, filed by Dalia Genger in the New York County Surrogate’s Court (Index No. 2008-0017/E).

21. Attached as **Exhibit 20** is a true and correct copy of a Certificate of Service filed in this adversary proceeding at ECF No. 3.

22. Attached as **Exhibit 21** is a true and correct copy of excerpts of the transcript of the hearing held on January 8, 2019 in the case titled, *Sagi Genger v. Orly Genger*, in the United States District Court for the Southern District of New York (Case No. 17-cv-8181-VSB).

23. Attached as **Exhibit 22** is a true and correct copy of Manhattan Safety Maine, Inc.'s Articles of Incorporation filed with the Maine Secretary of State on June 12, 2019 and a true and correct copy of Recovery Effort Inc.'s Articles of Incorporation filed with the Arkansas Secretary of State on June 4, 2019.

24. Attached as **Exhibit 23** is a true and correct copy of the assignment agreement by and between Dalia Genger, as Sole Trustee of the Orly Genger 1993 Trust, and Dalia Genger, as Sole Director of Recovery Effort Inc., dated June 13, 2019.

25. Attached as **Exhibit 24** is a true and correct copy of the inter-creditor agreement by and between the Orly Genger 1993 Trust, Recovery Effort Inc., Sagi Genger, TPR Investment Associates, Inc., Manhattan Safety Company Ltd., Manhattan Safety Maine, Inc., and Emmer, Marvin & Martin LLP, dated June 16, 2019.

26. Attached as **Exhibit 25** is a true and correct copy of the transcript of the hearing held on August 4, 2016 in the 2009 Action.

27. Attached as **Exhibit 26** is a true and correct copy of the Decision and Order dated May 29, 2013 in the 2009 Action.

28. Attached as **Exhibit 27** is a true and correct copy of the Bachman Letter in regard to the 2013 Settlement Agreement with Trump Group and AG Group, dated June 17, 2019.

29. Attached as **Exhibit 28** is a true and correct copy of the Joinder of Michael Oldner, Trustee of the Orly Genger 1993 Trust, to Judgment Creditor Sagi Genger's Motion to Dismiss Bankruptcy Case or, Alternatively, to Transfer Venue, and Memorandum of Law in Support, dated October 18, 2019, and filed in Orly Genger's Chapter 7 case at ECF No. 108.

30. Attached as **Exhibit 29** is a true and correct copy of the Notice of Discontinuance, dated June 20, 2019, and filed by the trustees for the Orly Genger 1993 Trust in the New York County Surrogate's Court (Index No. 2008-0017/E).

31. Attached as **Exhibit 30** is a true and correct copy of the Objection and Response of Dalia Genger and D&K GP LLC to the Trustee's Application Under Federal Rule of Bankruptcy Procedure 9019 and Local Rule 9019 to Approve Compromise [Dkt. No. 52], dated October 18, 2019, and filed in Orly Genger's Chapter 7 case at ECF No. 115.

32. Attached as **Exhibit 31** is a true and correct copy of the Orly Genger 1993 Trust Instrument of Resignation of Trustee and Appointment of Successor Trustee, dated June 12, 2019.

33. Attached as **Exhibit 32** is a true and correct copy of Dalia Genger's Responses to Chapter 7 Trustee's Requests for Admission, dated June 17, 2020.

34. Attached as **Exhibit 33** is a true and correct copy of the decision, dated June 21, 2017, entered in the New York County Surrogate's Court (Index No. 2008-0017/E).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: June 25, 2020

/s/ Jared C. Borriello
JARED C. BORRIELLO
TOGUT, SEGAL & SEGAL LLP
One Penn Plaza, Suite 3335
New York, New York 10119
(212) 594-5000

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system was served on June 25, 2020 by electronic means via the Court's CM/ECF system on all counsel registered to receive electronic notices.

/s/ Jared C. Borriello
JARED C. BORRIELLO